

# War and Global Justice Syllabus

## General Overview

Despite the continued introspection of the rich world, it seems irrefutable that in the twenty-first century our primary political concerns should be global. Whether it be war, global distributive justice, or climate change, the greatest challenges that face our generation, at least in the west, and specifically in the UK and the USA, should focus on how we understand our responsibilities not just to our compatriots, but also to the vast majority of mankind. At this very moment, there are soldiers fighting in our name who are killing innocent people, and ruining the lives of others. While we lavish resources on dubious wars and bizarre indulgences, children are dying of diseases, such as measles and TB, that can be eradicated with comparatively little investment. The threat of climate change is more long term, but our present negligence no less extreme. Whatever we ultimately conclude about these challenges—whether we believe that the innocent deaths are justified; that we have no duty to help children dying from preventable diseases; that we have no responsibilities to future generations—it is clear that they should stand at the forefront of our political and moral consciences, as the practices in which we are presently implicated which stand most clearly in need of either justification, or condemnation. Undoubtedly there are serious domestic issues that should concern us as well—not least, in the US, the failure to provide universal health care—but suppose the Iraq war were being fought not against a foreign country, but against a state or county in the US or UK; suppose kids were dying of measles in Suffolk and South Carolina, not Zimbabwe and Zambia. There may indeed be good reasons for distinguishing between such concerns, but these reasons are not obvious, and must receive moral and philosophical substantiation and scrutiny.

The goal of this term is to introduce two key areas in international political theory: war and global distributive justice. Interestingly, despite the obvious synergies between these two areas, they have developed out of quite different historical traditions, and have only recently been discussed in tandem. While the classical liberal thinkers, out of whose work contemporary thinking on global justice ultimately developed, undoubtedly addressed the problems of war, they did so only parenthetically, concentrating instead on issues of domestic politics, especially how to justify the coercive authority of the state. The just war tradition, instead, at least in its western variant, is embedded not in Anglo-American political philosophy, but in the Christian tradition of Continental Europe. Despite these different origins, the two areas of concern are coming together more and more in recent political philosophy, and undoubtedly our thinking on each should be informed by our thinking on the other. It could even be argued (full disclosure: this is something I'm writing about) that the central problem of both just war theory and global distributive justice is the same: it seems that, where war and resources are concerned, we do prioritise the needs of a subset of humanity with whom we happen to be associated in some way. We are torn between a logical commitment to the equal standing of every individual, wherever he is born, and a deeply entrenched, arguably politically unshakeable, commitment to the permissibility of prioritising the needs of our compatriots over those of outsiders. One of the central questions underlying both the morality of war, and that of global distributive justice, is whether this is a genuine clash at all: are these two moral values, in tension with one another, or rather is morality as equality merely in tension with our natural selfishness?

## Practicalities

For the first week, I want you to concentrate on reading all of the core reading, and whatever additional reading you can manage. In subsequent weeks you will write an essay, with one week off in the second half of term (your choice). Essays will be 2500 words minimum, and must be emailed to be before 1700 on the Sunday before your tutorial, preferably earlier. You are expected to have read and considered the guide to writing essays, and the sample essays provided, before you start writing. I also expect you to submit, along with the essay, the plan from which you wrote, as well as a short statement indicating how you have responded, each week, to the suggestions made in my comments on the previous week's essay, and indicating if there were any areas of the topic that you found particularly difficult. These additional materials are not optional.

The questions are taken from past papers. If you have your own question that you would like to answer, just email me to approve it, and I'll let you know if it's okay. If you are not writing an essay, you will be expected to have spent extra time reading, and you should come to the tutorial prepared with questions and ideas that you have cultivated during the week.

There is a huge amount of material to be covered in a short time, in this course. Your holiday reading should have put you in a position to cover plenty of ground each week. You will be expected to have done all the core reading: most weeks you'll have to read about 200 'new' pages (i.e. stuff not covered over the holidays—you should have already read Walzer's *Just and Unjust Wars* cover to cover, for example), and it should take you approximately one hour to read and note 20 pages. It is very important that you take careful notes. If you find yourself struggling with a text, you can contact me with questions by email.

## The Ethics of War

### Overview

Some authors make such a defining contribution to their field that their work remains the focal point for subsequent research for decades to come. In political philosophy, only John Rawls can be said to have had a greater influence than Michael Walzer, with his *Just and Unjust Wars*, first published in 1977. 31 years later Walzer is still the fulcrum of the philosophical discussion of war, his modernisation and revision of traditional just war theory an essential starting point for both his advocates, and his critics. And there is no shortage of the latter: Walzer's concessions to realism, his claim that the survival of political communities 'is the highest value of international society', his contextualist, communitarian methodology, have all come under attack. Philosophers like Henry Shue, Jeff McMahan and David Rodin, have tried to parse away Walzer's methodological excesses, and test his core precepts against the more stringent demands of analytic philosophy. Likewise the traditional principles of just war theory, shorn of the mystique grounded in their venerable origins, have been rigorously re-examined, paring away their conventional accretions to reveal whatever is tenable and true underneath. The war section of the syllabus is organised in recognition of the importance of Walzer's work. He has made a defining contribution to the debate around each topic to be discussed, and should be seen as a starting point in each week's reading except the first's, where we

look past Walzer into the origins of just war theory. Having understood his position, the positions of his critics will be all the clearer.

## 1. Traditional Just War Theory

### Overview

Walzer's defining role in the just war tradition has both advantages and disadvantages. One disadvantage is that the long tradition of philosophical reflection on war is sometimes telescoped into his specific interpretations. He has come to stand for 'traditional' just war theory, despite his numerous revisions and innovations. In this first week we're going to look in depth at the (Western) historical tradition, which provided the context for Walzer's arguments, reading texts written over a period of two and a half millennia. We're going to be asking ourselves two principal questions: first, is there a just war tradition? Can we identify clear principles, or even common themes, among such a diverse pool of writers, from so many different backgrounds? It's often thought, for example, that the just war tradition mandates six principles that must be satisfied for the resort to war to be justified: just cause, last resort, right intention, proportionality, appropriate authority, and realistic prospects of success. Where do these principles come from? How much internal dispute is there within the tradition? What are the dissident voices? The second, still more pertinent question, asks what we can take from this long tradition of reflection. Are the technological, social, and perhaps even moral advances that our societies have undergone so great that these texts are no longer relevant to contemporary warfare? For example, much of the Western just war tradition has emerged from Christianity: is it relevant to the contemporary multicultural context?

### Core Reading

Gregory M. Reichberg, Henrik Syse, and Endre Begby, *The Ethics of War: Classic and Contemporary Readings*, (Oxford: Blackwell, 2006), Chapters 1, 3, 6, 7, 9, 13, 16, 21, 23, 24, 27, 28, 29, 32, 33, 36, 39, 41, 42, 46, 51, 52.

### Additional Reading

A. J. Coates, *The Ethics of War*, (Manchester: Manchester University Press, 1997).  
Paul Ramsey, *War and the Christian Conscience: How Shall Modern War Be Conducted Justly?*, (Durham, N.C: Duke University Press, for the Lilly Endowment Research Program in Christianity and Politics, 1961).  
Paul Ramsey, *The Just War: Force and Political Responsibility*, (Lanham, Md: University Press of America, 1983).  
Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*, (Oxford: Oxford University Press, 1999).  
Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, (New York: Basic Books, 2000).

## 2. Just Cause (a) National Defence

### Overview

For what reasons can we set about the killing and maiming of large numbers of other people? For what reasons, in particular, can states constituted as they are in the contemporary world go about this macabre project? All theories of the moral justification of war presuppose the importance of there being some sort of just cause: mere aggression, the use of war as another policy tool, is now considered by most to be morally anathema (though this is a comparatively recent development). But what counts as a just cause? What is aggression? When one state is aggressed against by another, what justifies the response (if anything)? Is it a form of self-defence, and therefore limited by the same logic as interpersonal principles of self-defence? Or is it a form of punishment, constrained by similar principles as constrain the criminal law? Or is the whole notion of a domestic analogy, between military conflict and conflict between individuals, mistaken? Can wars of national defence be pre-emptive, even preventive? This week we'll start our sustained engagement with Walzer's work, setting it in the context of a number of rigorous critiques of the traditional conception of national defence.

### Questions

1. What, if anything, justifies the resort to war in national defence?
2. For what reasons, and under which circumstances, can wars of national defence be justifiably pre-emptive and/or preventive?
3. Is their possession of the ensemble of institutions that make up a modern state a precondition for a group being justified in fighting wars of national defence?

### Core Reading

Walzer, Chapters 1, 2, 4, 5.

David Luban, 'The Romance of the Nation-State', *Philosophy and Public Affairs*, 9/4 (1980), 392-397.

David Rodin, *War and Self-Defense*, (Oxford: Clarendon Press, 2002), Especially Chapters 5-8.

Michael Walzer, 'The Moral Standing of States: A Response to Four Critics', *Philosophy and Public Affairs*, 9/3 (1980), 209-229.

Jeff McMahan, 'Just Cause for War', *Ethics & International Affairs*, 19/3 (2005), 1-21.

Henry Shue, 'War', in LaFollette (ed.), *The Oxford Handbook of Practical Ethics* (Oxford ; New York: Oxford University Press, 2003), 733-761.

Jeff McMahan, 'War as Self-Defense', *Ethics & International Affairs*, 18/1 (2004), 75-80.

Neta C. Crawford, 'The Justice of Preemption and Preventive War Doctrines', in Evans (ed.), *Just War Theory: A Reappraisal* (Edinburgh: Edinburgh University Press, 2005), 25-49.

### Additional Reading

Coates.

Brian Orend, *Michael Walzer on War and Justice*, (Cardiff: University of Wales Press, 2000).

C. A. J. Coady, *Morality and Political Violence*, (Cambridge: Cambridge University Press, 2008).

Michael Walzer, 'The Triumph of Just War Theory (and the Dangers of Success)', *Social Research* (New School for Social Research, 2002), 925-944.

C. A. J. Coady, 'The Ethics of Armed Humanitarian Intervention', *Peacemakers* 45 (2002), Available free from <http://www.usip.org/pubs/PeaceWorks/pwks45.pdf>.

Cheney C. Ryan, 'Self-Defense and the Obligations to Kill and to Die', *Ethics & International Affairs*, 18/1 (2004), 69-74.

David Rodin, 'Beyond National Defense', *Ethics & International Affairs*, 18/1 (2004), 93-98.

David R. Mapel, 'The Right of National Defense', *International Studies Perspectives*, 8/1 (2007), 1-15.

David R. Mapel, 'Innocent Attackers and Rights of Self-Defense', *Ethics & International Affairs*, 18/1 (2004), 81-86.

Deane-Peter Baker, 'Defending the Common Life: National-Defence after Rodin', *Journal of Applied Philosophy*, 23/3 (2006), 259-275.

Allen Buchanan and Robert O. Keohane, 'Justifying Preventive Force', *Ethics & International Affairs*, 19/2 (2005), 109-111.

Allen Buchanan and Robert O. Keohane, 'The Preventive Use of Force: A Cosmopolitan Institutional Proposal', *Ethics & International Affairs*, 18/1 (2004), 1-22.

Alan Dershowitz, *Preemption: A Knife That Cuts Both Ways*, (London: W. W. Norton, 2006).

Henry Shue and David Rodin, *Preemption: Military Action and Moral Justification*, (Oxford: Oxford University Press, 2007).

Jeff McMahan, 'Preventive War and the Killing of the Innocent', in Sorabji et al. (eds.), *The Ethics of War: Shared Problems in Different Traditions* (Aldershot: Ashgate, 2006), 169-190.

Thomas Hurka, 'Proportionality in the Morality of War', *Philosophy & Public Affairs*, 33/1 (2005), 34-66.

Allen Buchanan, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec*. Westview Press, 1991).

Allen Buchanan, 'Theories of Secession', *Philosophy & Public Affairs*, 26/1 (1997), 31-61.

Allan Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, (Oxford: Oxford University Press, 2004).

Allan Buchanan, 'What's So Special About Nations?' in Couture et al. (eds.), *Rethinking Nationalism* (Calgary: University of Calgary Press, 1998), 283-309.

Stephen Macedo and Allen E. Buchanan, *Secession and Self-Determination*, (New York ; London: New York University Press, 2003).

Omar Dahbour, 'The Nation-State as a Political Community: A Critique of the Communitarian Argument for National Self-Determination', in Couture et al. (eds.), *Rethinking Nationalism* (Calgary: University of Calgary Press, 1998), 311-343.

Robert McKim and Jeff McMahan, *The Morality of Nationalism*, (Oxford: Oxford University Press, 1997).

Avishai Margalit and Joseph Raz, 'National Self-Determination', *The Journal of Philosophy*, 87/9 (1990), 439-461.

David Miller, *On Nationality*, (Oxford: Clarendon Press, 1995).

### **3. Just Cause (b) Humanitarian Intervention**

#### Overview

Perhaps the greatest single change in the moral landscape of warfare has been the increasing clamour for principles of just war to be extended beyond their traditionally defensive scope to legitimate some apparently aggressive wars, fought for purposes of humanitarian intervention. Especially since Rwanda, it is increasingly recognised that in some cases those who are able to do so have a duty to intervene to protect the weak against the predations of the strong. But there is an obvious tension between this

advocacy of humanitarian intervention, and the doctrine of state sovereignty which arguably underpins the standard conception of just war in national defence. On the one hand we ascribe to groups the right to protect their state against aggression; on the other we ascribe to outsiders the right to aggress against some groups. Is this an apparent, or real, disjuncture? Can the justification of humanitarian intervention be understood within the rubric of traditional just war theory, or does it require a radical rethink?

### Questions

1. 'Humanitarian intervention and national defence can only be justified by appeal to the same principles if we reject the archaic conventions of just war theory, and rethink the morality of war from the perspective of the rights of persons, not the rights of states.' Discuss.
2. 'Traditional just war theory contains all the resources necessary to justify contemporary humanitarian interventions.' Discuss.
3. 'The only certainty in the otherwise radically unpredictable practice of using military force to achieve humanitarian or other objectives is that it will bring untold death and destruction to the target area. Given this fact, advocates of humanitarian intervention should be treated with scepticism.' Discuss.
4. Does the best justification of humanitarian intervention mandate a right, or a duty to intervene?
5. What is the role of legitimate authority in determining the justice of a humanitarian intervention?

### Core Reading

Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Preface, Chapter 6.

David Luban, 'Just War and Human Rights', *Philosophy and Public Affairs*, 9/2 (1980), 160-181.

Henry Shue, 'Let Whatever Is Smouldering Erupt? Conditional Sovereignty Reviewable Intervention and Rwanda 1994', in Paolini et al. (eds.), *Between Sovereignty and Global Governance: The United Nations, the State and Civil Society* (Basingstoke: Macmillan, 1998), 35-59.

Fernando Téson, 'The Liberal Case for Humanitarian Intervention', in Holzgrefe et al. (eds.), *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), 93-129.

Fernando R. Téson, 'Self-Defense in International Law and Rights of Persons', *Ethics & International Affairs*, 18/1 (2004), 87-92.

David Mellow, 'Iraq: A Morally Justified Resort to War', *Journal of Applied Philosophy*, 23/3 (2006), 293-310.

Coady, 'The Ethics of Armed Humanitarian Intervention'.

### Additional Reading

Henry Shue, 'Eroding Sovereignty: The Advance of Principle', in McKim et al. (eds.), *The Morality of Nationalism* (New York ; Oxford: Oxford University Press, 1997), 340-359.

Carl Kaysen and George Rathjens, 'The Case for a Volunteer U.N. Military Force', *Daedalus* 132 /1 (2003), 91-103.

Stanley Hoffmann, Robert C. Johansen, and James P. Sterba, *The Ethics and Politics of Humanitarian Intervention*, (Notre Dame: University of Notre Dame Press, 1997).

Michael N. Barnett, *Eyewitness to a Genocide : The United Nations and Rwanda*, (Ithaca: Cornell University Press, 2002).

Robert C. Johansen, 'Limits and Opportunities in Humanitarian Intervention', in Hoffmann et al. (eds.), *The Ethics and Politics of Humanitarian Intervention* (Notre Dame: University of Notre Dame Press, 1997), 61-86.

Jeff McMahan, 'Intervention and Collective Self-Determination', *Ethics & International Affairs*, 10/1 (1996), 1-24.

Michael Walzer, 'Arguing for Humanitarian Intervention', in Mills et al. (eds.), *The New Killing Fields : Massacre and the Politics of Intervention* (New York, N.Y.: Basic Books, 2002), 19-36.

Jennifer M. Welsh, *Humanitarian Intervention and International Relations*, (Oxford: Oxford University Press, 2004).

Jennifer M. Welsh, 'Taking Consequences Seriously: Objections to Humanitarian Intervention', in Welsh (ed.), *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press, 2004), 52-68.

David Miller, 'Distributing Responsibilities', *Journal of Political Philosophy*, 9/4 (2001), 453-471.

Téson, 'The Liberal Case for Humanitarian Intervention'.

Simon Caney, *Justice Beyond Borders: A Global Political Theory*, (Oxford: Oxford University Press, 2005).

R. O. B. Lawlor, 'Luck, Evidence and War', *Journal of Applied Philosophy*, 23/3 (2006), 247-257.

## 4. Killing Soldiers

### Overview

Thus far we've looked at war from the perspective of what is traditionally called the *jus ad bellum*, justice prior to war, or in the resort to war. There are also moral principles governing the conduct of war, or *jus in bello*. What can justify the specific acts of killing and maiming necessary for the war to be won? What makes an act that would, in any other context, be considered an unparalleled evil, permissible in the context of war? The question is traditionally divided up into discussion of the killing of soldiers on the one hand, and civilians on the other, with the difference between the two justified by the principle of discrimination between combatants and non-combatants. But why should we suppose that combatants, simply in virtue of their status as combatants, should be permissible targets for lethal force? In particular, why should combatants on the side with just cause be such targets? They have done nothing besides what morality demands of them, and yet somehow they have lost their rights to life: how can this be justified? This is perhaps the area of Walzer's philosophy of war that has been most aggressively and rigorously scrutinised, as philosophers such as Jeff McMahan have challenged his thesis that there is a moral equality between soldiers: irrespective of whether they are on the just or the unjust side, they can kill and maim each other with equal right.

### Questions

1. 'Since one cannot lose one's rights to life simply by following the demands of morality, combatants on the just side may not permissibly be killed by combatants on the unjust side.' Discuss.
2. Is the moral equality of soldiers mandated by combatants' consent to be intentionally targeted?
3. Is the fact that A poses a threat to B's life sufficient to abrogate A's rights to life, even if A is wholly innocent of that threat?
4. 'The doctrine of the moral equality of soldiers, combined with the principle of discrimination, is a pragmatic requirement aimed at limiting deaths in war, and is justified on this basis alone.' Discuss.
5. 'If war cannot be fought without the deliberate killing of innocent combatants, then all war is necessarily unjust, and we should affirm pacifism, instead of just war theory.' Discuss.

### Core Reading

- Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Chapter 3, 8.
- Jeff McMahan, 'Innocence, Self-Defense and Killing in War', *Journal of Political Philosophy*, 2/3 (1994), 193-221.
- Jeff McMahan, 'The Ethics of Killing in War', *Ethics*, 114/1 (2004), 693-732.
- Jeff McMahan, 'On the Moral Equality of Combatants', *Journal of Political Philosophy*, 14/4 (2006), 377-393.
- Michael Walzer, 'Response to McMahan's Paper', *Philosophia*, 34/1 (2006), 43-45.
- Noam J. Zohar, 'Collective War and Individualistic Ethics: Against the ConscriptioN Of "Self-Defence"', *Political Theory*, 21/4 (1993), 606-622.
- Hurka.
- George I. Mavrodes, 'Conventions and the Morality of War', *Philosophy and Public Affairs*, 4/2 (1975), 117-131.
- Gerhard Overland, 'Killing Soldiers', *Ethics & International Affairs*, 20/4 (2006), 455-475.

### Additional Reading

- Jeff McMahan, 'Self-Defense and the Problem of the Innocent Attacker', *Ethics*, 104/2 (1994), 252-290.
- Jeff McMahan, 'The Morality of War and the Law of War', in Shue et al. (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Oxford University Press, 2008), 19-43. (not yet available)
- Jeff McMahan, 'Killing in War: A Reply to Walzer', *Philosophia*, 34/1 (2006), 47-51.
- Henry Shue, 'Do We Need a Morality of War?' in Shue et al. (eds.), *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Oxford University Press, 2008), 87-111. (not yet available)
- Christopher Kutz, 'The Difference Uniforms Make: Collective Violence in Criminal Law and War', *Philosophy & Public Affairs*, 33/2 (2005), 148-180.
- Noam J. Zohar, 'Can a War Be Morally "Optional"?' *Journal of Political Philosophy*, 4/3 (1996), 229-241.
- David Wasserman, 'Justifying Self-Defense', *Philosophy and Public Affairs*, 16/4 (1987), 356-378.
- Judith Jarvis Thomson, 'Self-Defence', *Philosophy and Public Affairs*, 20/4 (1991), 283-310.
- Michael Otsuka, 'Killing the Innocent in Self-Defense', *Philosophy and Public Affairs*, 23/1 (1994), 74-94.
- Richard Norman, *Ethics, Killing and War*, (Cambridge: Cambridge University Press, 1995).

Cheney C. Ryan, 'Self-Defense, Pacifism, and the Possibility of Killing', *Ethics*, 93/3 (1983), 508-524.

Phillip Montague, 'The Morality of Self-Defense: A Reply to Wasserman', *Philosophy and Public Affairs*, 18/1 (1989), 81-89.

Phillip Montague, 'Self-Defence and Choosing between Lives', *Philosophical Studies*, 40/2 (1981), 207-219.

Larry May, *War Crimes and Just War*, (Cambridge: Cambridge University Press, 2007).

Russell Christopher, 'Self-Defence and Defence of Others', *Philosophy & Public Affairs*, 27/2 (1998), 123-141.

Larry Alexander, 'Self-Defense, Justification and Excuse', *Philosophy and Public Affairs*, 22/1 (1993), 53-66.

Michael Clark, 'Self-Defence against the Innocent', *Journal of Applied Philosophy*, 17/2 (2000), 145-155.

Susan Levine, 'The Moral Permissibility of Killing a 'Material Aggressor' in Self-Defense', *Philosophical Studies*, 45/1 (1984), 69-78.

David Estlund, 'On Following Orders in an Unjust War\*', *Journal of Political Philosophy*, 15/2 (2007), 213-234.

## 5. Discrimination and Double Effect: Killing Civilians

### Overview

Although many have thought Walzer's thesis of the moral equality of soldiers implausible, it provided strong foundations for a further constraint on the conduct of war, which fewer would be content to reject, and yet which may be difficult to sustain without that moral equality thesis. The principle of discrimination between combatants and non-combatants states that combatants should never intentionally target non-combatants. It is justified, by Walzer, on grounds that they have done nothing to lose their rights to life, whereas combatants, by becoming 'dangerous men' who pose an imminent threat, can kill one another permissibly (provided it is proportionate and necessary). Advocates of a moralised conception of self-defence, who reject the moral equality of soldiers, must then either explain why it is okay for morally guilty non-combatants to be intentionally targeted, or must show that their theory does not in fact have this as a consequence. Is it their moral innocence, or the fact that they do not pose a material threat, which grounds the immunity to intentional attack of non-combatants? Of course, no war yet has been fought without some non-combatant casualties: what are we to make of this 'collateral damage'? Is it right-violating? How can it be justified? The conventional position is that there is a difference between foreseeing and intending harm, and that we can maintain a near absolute prohibition on intending harm, while permitting harms that are foreseeable but unintended. Does this 'doctrine of double effect' stand up to scrutiny? How does our understanding of the principle of non-combatant immunity inform our condemnation of terrorism? Does acceptance of the doctrine of double effect make the unequivocal condemnation of terrorism harder to justify?

### Questions

1. 'The doctrine of double effect identifies an important fact, that intentions matter: but they cannot matter as much as it contends; in particular, they cannot make the difference between an absolute prohibition on intentional killing, and a conditional permission to unintentionally kill.' Discuss.

2. 'Since it makes no difference to the victim whether his killer intended to take his life or not, the doctrine of double effect should play no role in the justification of killing in war.' Discuss.
3. 'The proper grounds for liability to intentional killing in war is moral guilt, not material threat. Guilty non-combatants can be killed with as much justification as guilty combatants; innocent combatants and non-combatants, conversely, must never be deliberately targeted.' Discuss.
4. Can terrorism ever be morally justified?
5. 'The principle of discrimination and the doctrine of double effect give a military advantage to states with the most resources: terrorism is a weapon of the weak and the poor. Its absolute condemnation merely reflects this balance of power.' Discuss.
6. What are the moral foundations, and limitations, of the doctrine of double effect?

### Core Reading

Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Chapter 8-10, 13, 14.

Larry May, 'Killing Naked Soldiers: Distinguishing between Combatants and Noncombatants', *Ethics & International Affairs*, 19/3 (2005), 39-53.

Thomas Nagel, 'War and Massacre', *Philosophy and Public Affairs*, 1/2 (1972), 123-144.

G. E. M. Anscombe, *The Collected Philosophical Papers of G.E.M. Anscombe*, (Minneapolis: University of Minnesota Press, 1981), Chapter entitled 'Mr Truman's Degree'.

Gerhard Overland, 'Killing Civilians', *European Journal of Philosophy*, 13/3 (2005), 345-363.

Thomas W. Smith, 'The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence', *International Studies Quarterly*, 46/3 (2002), 355-374.

Alison McIntyre, 'Doing Away with Double Effect', *Ethics*, 111/2 (2001), 219-255.

Warren S. Quinn, 'Actions, Intentions, and Consequences: The Doctrine of Double Effect', *Philosophy and Public Affairs*, 18/4 (1989), 334-351.

F. Kamm, 'Terror and Collateral Damage: Are They Permissible?' *The Journal of Ethics*, 9/3 (2005), 381-401.

Igor Primoratz, 'The Morality of Terrorism', *Journal of Applied Philosophy*, 14/3 (1997), 221-233.

Michael Walzer, 'Terrorism and Just War', *Philosophia*, 34/1 (2006), 3-12.

Jeff McMahan, 'Liability and Collective Identity: A Response to Walzer', *Philosophia*, 34/1 (2006), 13-17.

### Additional Reading

McMahan, 'Killing in War'.

'Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949', (1977).

'Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War', (1949).

McMahan, 'Innocence'.

McMahan, 'Killing in War'.

Robert K. Fullinwider, 'War and Innocence', *Philosophy and Public Affairs*, 5/1 (1975), 90-97.

Lawrence A. Alexander, 'Self-Defense and the Killing of Noncombatants: A Reply to Fullinwider', *Philosophy and Public Affairs*, 5/4 (1976), 408-415.

Adam Roberts and Richard Guelff, *Documents on the Laws of War*, (Oxford: Oxford University Press, 2000), 299-300, 419-422.

Albert A. Stahel, 'Dissymmetric Warfare Versus Asymmetric Warfare', *International Transactions in Operational Research*, 11/4 (2004), 435-446.

Theodore J. Koontz, 'Noncombatant Immunity in Michael Walzer's Just and Unjust Wars', *Ethics & International Affairs*, 11/1 (1997), 55-82.

P. A. Woodward, *The Doctrine of Double Effect : Philosophers Debate a Controversial Moral Principle*, (Notre Dame, Ind.: University of Notre Dame Press, 2001).

Jeff McMahan, 'Killing, Letting Die, and Withdrawing Aid', *Ethics*, 103/2 (1993), 250-279.

Judith Lichtenberg, 'War, Innocence, and the Doctrine of Double Effect', *Philosophical Studies*, 74/3 (1994), 347-368.

F. M. Kamm, 'Justifications for Killing Noncombatants in War', *Midwest Studies in Philosophy*, 24/1 (2000), 219-228.

Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Chapter 11, 12.

Anna Moltchanova, 'Stateless National Groups, International Justice and Asymmetrical Warfare', *Journal of Political Philosophy*, 13/2 (2005), 194-215.

Christopher Greenwood, 'International Law and The "War against Terrorism"', *International Affairs*, 78/2 (2002), 301-317.

J. Gearson, 'The Nature of Modern Terrorism', *The Political Quarterly*, 73 (2002), 7-24.

Kamm, 'Terror and Collateral Damage: Are They Permissible?'

Samuel Scheffler, 'Is Terrorism Morally Distinctive?' *Journal of Political Philosophy*, 14/1 (2006), 1-17.

David Rodin, 'Terrorism without Intention', *Ethics*, 114/1 (2004), 752-771.

Igor Primoratz, *Terrorism : The Philosophical Issues*, (Basingstoke: Palgrave Macmillan, 2004).

C. A. J. Coady and Michael P. O'Keefe, *Terrorism and Justice : Moral Argument in a Threatened World*, (Carlton, Vic.: Melbourne University Press, 2002).

Fritz Allhoff, 'Terrorism and Torture', *International Journal of Applied Philosophy*, 17/1 (2003), 105-118.

## 6. Exceptions: Torture and Supreme Emergency

### Overview

How should we understand the prescriptions of just war theory and its offshoots? Are they absolute principles, never to be breached, however extreme the circumstances? Or are there situations when the principles must be shelved, and we can resort to extreme measures? The two commonest forms of the latter argument concern the morality of torture, and that of supreme emergency. Torture is usually considered one of the means *mala in se* that is absolutely prohibited, but in the classic hypothetical, what do we do when we have a terror bomber in our custody, and he won't reveal the location of a bomb that is going to kill many innocent people? Less discussed these days, but equally salient in the nuclear age, is the issue of supreme emergency: when a political community faces imminent catastrophe, can it ever deliberately target enemy non-combatants? How should we conceive of that catastrophe? Does modifying our absolutism lead us to a slippery slope towards completely indiscriminate warfare? Does the justice of our cause have any bearing on the permissibility of using extreme measures in supreme emergency?

### Questions

1. Are there situations sufficiently extreme that the deliberate targeting of non-combatants might be permissible?

2. 'Despite appearances, Walzer's supreme emergency doctrine is not justified on consequentialist grounds.' Discuss.
3. 'The supreme emergency doctrine is predicated on Walzer's claim that the survival of political communities is the highest value of international society. Advocates of ethical individualism must reject this claim, and with it the supreme emergency doctrine.' Discuss.
4. 'It might be possible to justify torture, or deliberately targeting non-combatants, in highly contrived hypothetical examples, but in the real world they will never actually be permissible courses of action.' Discuss.
5. 'Preparing for the possibility of extreme measures inculcates attitudes and practices as harmful as the consequences of being unprepared for those circumstances.' Discuss.

### Core Reading

- Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, Chapter 16.
- Brian Orend, 'Is There a Supreme Emergency Exemption?' in Evans (ed.), *Just War Theory: A Reappraisal* (Edinburgh: Edinburgh University Press, 2005), 134-156.
- Christopher Toner, 'Just War and the Supreme Emergency Exemption', *The Philosophical Quarterly*, 55/221 (2005), 545-561.
- Daniel Statman, 'Supreme Emergencies Revisited', *Ethics*, 117/1 (2006), 58-79.
- Henry Shue, 'Liberalism: The Impossibility of Justifying Weapons of Mass Destruction', in Hashmi et al. (eds.), *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives* (Cambridge: Cambridge University Press, 2004), 139-162.
- Michael Walzer, 'Political Action: The Problem of Dirty Hands', *Philosophy and Public Affairs*, 2/2 (1973), 160-180.
- Henry Shue, 'Torture', *Philosophy and Public Affairs*, 7/2 (1978), 124-143.
- Vittorio Bufacchi and Jean Maria Arrigo, 'Torture, Terrorism and the State: A Refutation of the Ticking-Bomb Argument', *Journal of Applied Philosophy*, 23/3 (2006), 355-373.
- Uwe Steinhoff, 'Torture: The Case for Dirty Harry and against Alan Dershowitz', *Journal of Applied Philosophy*, 23/3 (2006), 337-353.

### Additional Reading

- Alex J. Bellamy, 'Supreme Emergencies and the Protection of Non-Combatants in War', *International Affairs*, 80/5 (2004), 829-850.
- Robert Anthony Pape, *Bombing to Win: Air Power and Coercion in War*, (Ithaca, N.Y. ; London: Cornell University Press, 1996).
- Daniel Statman, 'Moral Tragedies, Supreme Emergencies and National-Defence', *Journal of Applied Philosophy*, 23/3 (2006), 311-322.
- J. Herman Burgers and Hans Danelius, *The United Nations Convention against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, (Dordrecht: M. Nijhoff, 1988).
- Alex J. Bellamy, 'No Pain, No Gain? Torture and Ethics in the War on Terror', *International Affairs*, 82/1 (2006), 121-148.
- David Sussman, 'What's Wrong with Torture?' *Philosophy & Public Affairs*, 33/1 (2005), 1-33.
- C. A. J. Coady and Onora O'Neill, 'Messy Morality and the Art of the Possible', *Proceedings of the Aristotelian Society, Supplementary Volumes*, 64 (1990), 259-294.

# Global Justice

## Overview

Estimates vary over how many people have lost their lives in the Iraq war, but the best guess seems to be somewhere around 100,000. Meanwhile, every year, 18,000,000 people die from poverty related causes. That's one third of global deaths (these are Thomas Pogge's statistics). Given the great wealth that exists in the world, it seems plausible to think that a considerable number of those deaths could be prevented, if we just devoted as much thought and care to resolving the problems of the world's poor as we do to the lesser problems of the world's rich. The sheer severity of the situation means that the philosophical argument has long since shifted away from the question of whether or not the rich owe anything to the world's poor, towards questions of how we should understand that debt (and if we should understand it as a debt at all), and how, if at all, we can justify advocating different principles of distributive justice at the global and the state level. Our two weeks on global justice focus on these two questions. It should be remembered throughout, however, that while philosophers are all but unanimous in agreeing that the world's poor are entitled at least to basic human rights, even this minimalist requirement is not even remotely on the political horizon at present.

## 7. Arguments for Global Redistribution

### Overview

Perhaps there are some people who genuinely think, after serious moral reflection, that there is nothing wrong with the fact that a child born in Malawi has over a 20% chance of dying before the age of five. Perhaps some people think that, despite the great wealth of people in countries such as the US and the UK, there is no moral injunction which mandates doing something about this child's fate. Perhaps they might say that it's just the way things are, it's natural, there's nothing we can do about it, or it's not our fault. If such a person can be convinced by philosophical argument in defence of global redistributive justice, what sort of form should that argument take? How should we justify and motivate the demand that some action be taken? Broadly speaking, there are three different types of positive argument for global justice which merit consideration. First, there are the minimalist responsibility-based accounts. According to this view, we ought to do something about this child's fate, because it is in part our fault that he is in that position. In particular, Thomas Pogge has argued that those who design, sustain, and benefit from the global economic order are to blame for the ways in which that order harms the world's poor. Remedying this injustice, and compensating its victims, is a requirement of justice. The second account is the minimalist positive duty based account. This view says that when people are suffering tremendously, and it would be easy for us to remedy that suffering, then we have a positive duty to do so, grounded simply in the fact of their need. This minimalist account can be understood as grounded in justice, insofar as we believe that people have rights to those minimalist entitlements, or to a distribution which secures those entitlements. It can also be understood as a matter of charity, although the boundary between justice and charity, at this point, is hard to maintain. This account has the virtue of appealing to the better angels of people's nature: where the first approach invites a defensive response, this one appeals to our humanity more positively. The third account is a maximalist positive duty based account. On this view, we owe the global poor not just minimalist basic human rights, but a genuine

system of global distributive justice. Perhaps we might argue for global equality of resources, since no individual or group has a natural entitlement to any specific piece of property. Or alternatively for global luck egalitarianism, according to which our aim should be to eliminate inequalities that arise through no fault of their victims. This view is motivationally less plausible than the previous two, but philosophically perhaps more compelling, given its consistency.

### Core Reading

Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*, (Cambridge: Polity Press, 2002), Introduction and Chapters 4, 5, and 8.  
Alan Patten, 'Should We Stop Thinking About Poverty in Terms of Helping the Poor?' *Ethics and International Affairs*, 19/1 (2005), 19-27.  
Thomas Pogge, 'Severe Poverty as a Violation of Negative Duties', *Ethics and International Affairs*, 19/1 (2005), 55-83.  
Henry Shue, *Basic Rights: Subsistence, Affluence, and Us Foreign Policy (Second Edition)*, (Princeton: Princeton University Press, 1996).  
Caney, chapter 4.

### Additional Reading

Onora O'Neill, *Bounds of Justice*, (Cambridge: Cambridge University Press, 2000), pp.115-142.  
Mathias Risse, 'Do We Owe the Global Poor Assistance or Rectification?' *Ethics & International Affairs*, 19/1 (2005), 9-18.  
Charles R. Beitz, *Political Theory and International Relations (Second Edition)*, (Guildford: Princeton University Press, 1999).  
Bashshar Haydar, 'Extreme Poverty and Global Responsibility', *Metaphilosophy*, 36/1-2 (2005), 240-253.  
Thomas Pogge (ed.), *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor?* (Oxford: Oxford University Press, 2007).

## **8. Arguments for Limits to Global Redistribution**

Of the three positions just outlined, the first two are motivationally much more plausible than the third. It seems hard enough, at present, to imagine the realisation of basic human rights. Global distributive justice may just seem wildly unrealistic. But if that is the case then we face an apparent tension between the principles of distributive justice that we advocate at the domestic level, and those we defend at the global level. If residents of Suffolk survived with only their basic human rights being fulfilled, while residents of the rest of the UK lived as they do now, we would consider this a great injustice. Why is the same point not true of global society? There are numerous different arguments for the thesis that there is a disjuncture between global and social justice. Some focus on the principle that distributive justice is only owed by a state to the people whom it coerces, since it is a condition of coercive authority being justified that it be exercised equally; some point to the great differences between different societies, and argue that this pluralism is what mandates different principles of distributive justice at different levels; some, finally, argue that there is some moral significance to the relationships that are sustained by these inequalities, and something would be lost if we

abandoned them. Some philosophers, such as David Miller, combine elements of all of these arguments. Each has received strident criticism.

### Core Reading

Thomas Nagel, 'The Problem of Global Justice', *Philosophy and Public Affairs*, 33/2 (2005), 113-147.

Joshua Cohen and Charles Sabel, 'Extra Republicam Nulla Justitia?' *Philosophy & Public Affairs*, 34/2 (2006), 147-175.

David Miller, *National Responsibility and Global Justice*, (Oxford: Oxford University Press, 2007), chapters 2, 3, 7.

Samuel Scheffler, *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought*, (Oxford: Oxford University Press, 2002), Chapters 3-7.

Andrew Mason, 'Special Obligations to Compatriots', *Ethics*, 107/3 (1997), 427-447.

Christopher Heath Wellman, 'Friends, Compatriots, and Special Political Obligations', *Political Theory*, 29/2 (2001), 217-236.

### Additional Reading

Andrea Sangiovanni, 'Global Justice, Reciprocity, and the State', *Philosophy and Public Affairs*, 35/1 (2007), 3-39.

David Miller, 'Justice and Global Inequality', in Hurrell et al. (eds.), *Inequality, Globalization, and World Politics* (1999), 187-211.

John Rawls, *The Law of Peoples, with 'the Idea of Public Reason Revisited*, (Cambridge, MA.: Harvard University Press, 1999).

Thomas Pogge, 'The Incoherence between Rawls' Theories of Justice', *Fordham Law Review*, 72 (2003-4), 1739-1759.

Kok-Chor Tan, *Toleration, Diversity, and Global Justice*, (University Park, Pa.: Pennsylvania State University Press, 2000).

John Tasioulas, 'From Utopia to Kazanistan: John Rawls and the Law of Peoples', *Oxford Journal of Legal Studies*, 22/2 (2002), 367-396.

David Miller, 'Reasonable Partiality Towards Compatriots', *Ethical Theory and Moral Practice*, 8/1 (2005), 63-81.

Miller, *National Responsibility and Global Justice*, Chapter 5.

Yael Tamir, *Liberal Nationalism*, (Princeton: Princeton University Press, 1993).

Miller, *On Nationality*, chapter 3.

Robert E. Goodin, 'What Is So Special About Our Fellow Countrymen?' *Ethics*, 98/4 (1988), 663-686.

Charles R. Beitz, 'Cosmopolitan Ideals and National Sentiment', *The Journal of Philosophy*, 80/10 (1983), 591-600.

Christopher Heath Wellman, 'Relational Facts in Liberal Political Theory: Is There Magic in the Pronoun 'My'?' *Ethics*, 110/3 (2000), 537-562.